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Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Report of the Fifth Committee

Rapporteur: Mr. Tammam **Sulaiman** (Syrian Arab Republic)

I. Introduction

1. At its 3rd plenary meeting, on 15 September 1998, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-third session the item entitled "Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994" and to allocate it to the Fifth Committee.

2. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General on the conditions of service for the judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (A/52/520);

(b) Report of the Advisory Committee on Administrative and Budgetary Questions on the revised estimates for 1998 and estimates for 1999 (A/53/659);

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(c) Report of the Secretary-General containing the third annual budget performance report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 (A/C.5/52/48);

(d) Report of the Secretary-General on the revised estimates for the year 1998 (A/C.5/53/14);

(e) Report of the Secretary-General containing the 1999 resource requirements of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 (A/C.5/53/15 and Corr.1 (French only));

(f) Note by the Secretary-General transmitting the report of the Office of Internal Oversight Services on the follow-up to the 1997 audit and investigation of the International Criminal Tribunal for Rwanda (A/52/784).

3. The Fifth Committee considered the item at its 32nd, 34th, 35th, 37th and 45th meetings on 20, 23, 24, 30 November and 17 December 1998. Statements and observations made in the course of the Committee's consideration of the item are reflected in the relevant summary records (A/C.5/53/SR.32, 34, 35, 37 and 45).

II. Consideration of draft resolution A/C.5/53/L.23

4. At the 45th meeting, on 17 December, the representative of New Zealand and coordinator of the informal consultations on the item introduced a draft resolution entitled "Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994" (A/C.5/53/L.23), submitted by the Chairman on the basis of informal consultations.

5. At the same meeting, the Committee adopted draft resolution A/C.5/53/L.23 without a vote (see para. 6).

III. Recommendation of the Fifth Committee

6. The Fifth Committee recommends to the General Assembly the adoption of the following draft resolution:

Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

The General Assembly,

Taking note of the reports of the Secretary-General on the financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994,[1] and the related report of the Advisory Committee on Administrative and Budgetary Questions,[2]

Recalling its resolution 49/251 of 20 July 1995 on the financing of the International Tribunal for Rwanda, and its subsequent resolutions thereon, the latest of which was resolution 52/218 of 22 December 1997,

Recalling also that by paragraph 6 of its resolution 52/218, it had agreed to defer the consideration of the pension entitlement for members of the International Tribunal for Rwanda proposed in the report of the Secretary-General[3] until the review of the report of the Secretary-General on the emoluments and pension scheme of members of the International Court of Justice submitted to the General Assembly at its current session;[4]

1. *Takes note* of the observations and recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions,[2] subject to the provisions of the present resolution;

2. *Expresses its concern* about the late submission of the budget proposals for 1999 and reiterates its request contained in its resolution 50/213 C of 7 June 1996 that future budget proposals be submitted before 1 November of each year;

3. *Takes note* that, according to the information provided by the Secretariat, the International Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda have one Prosecutor whose duty station is The Hague, and that the International Tribunal for Rwanda does not have a resident Prosecutor, but a Deputy Prosecutor;

4. *Requests* the Secretary-General, with a view to evaluating the effective operation and functioning of the International Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda with the objective of enhancing the efficient use of the resources of the Tribunals, to conduct, in full cooperation with their Presidents, a review as recommended

[1] A/C.5/53/14 and A/C.5/53/15.

[2] A/53/659.

[3] A/52/520.

[4] A/C.5/53/11.

by the Advisory Committee in its reports,[5] and in the statement contained in paragraph 43 of summary record A/C.5/53/SR.37, without prejudice to the provisions of the Statutes of the Tribunals and their independent character, and to report thereon to the relevant organs of the United Nations;

5. *Also requests* the Secretary-General to submit the report called for in paragraph 3 above, along with the budget proposals for 2000, no later than 1 November 1999;

6. *Expresses concern* about the high vacancy rate in the Professional and General Service categories of staff at the Tribunal and requests the Secretary-General to take all necessary measures, including those related to the recruitment process, to address the situation, and to report thereon to the General Assembly in the budget proposals for the year 2000;

7. *Notes with concern* that gratis personnel were accepted in 1998 in disregard of the provisions of Assembly resolution 51/243 of 15 September 1997, in order to compensate for the vacancy rates and delays in processing the recruitment of staff, as indicated in paragraph 5 of the report of the Secretary-General;[6]

8. *Reaffirms* that gratis personnel shall be phased out by 31 December 1998 in accordance with paragraph 2 of Assembly resolution 52/218 of 22 December 1997;

9. *Reaffirms also* that gratis personnel should be treated in accordance with its resolutions 51/243 of 15 September 1997 and 52/234 of 26 June 1998;

10. *Requests* the Secretary-General to include information on the monthly post incumbency in future budget proposals;

11. *Emphasizes* that the delegation of authority for human resources management should be strictly in accordance with the existing Staff Regulations and Rules;

12. *Also emphasizes* that staff in the Tribunal should be recruited in accordance with Article 101.3 of the Charter of the United Nations;

13. *Takes note* of the information provided by the Secretariat that the Registry is working closely with the Office of Human Resources Management in reviewing the current remuneration package applicable to staff of the Tribunal with a view to improving the conditions of service at Arusha and Kigali within the context of the United Nations common system, and requests the International Civil Service Commission to submit its proposals in this regard in the context of its annual report for 1999, no later than 1 November 1999;

14. *Notes* the new arrangement in paragraphs 28, and 1 and 78 to 82 in annex IV to the report of the Secretary-General;[6]

15. *Emphasizes* that the new arrangement should not deprive the judges of their supervisory role vis-à-vis the legal support staff;

16. *Notes* with concern that a number of workload indicators were inaccurate, inflated and unjustifiable;

17. *Requests* the Secretary-General to ensure that the workload indicators are monitored and checked for accuracy and consistency;

18. *Also requests* the Secretary-General to ensure that expenditure data from the field are entered into the main expenditure record on a timely basis;

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[5] A/53/651, paras. 65–67, and A/53/659, paras. 84–86.

[6] A/C.5/53/15.

19. *Takes note* with appreciation of the efforts made to address the problems and to improve the overall functioning of the Tribunal;

20. *Requests* the Secretary-General to include a section in future budget proposals on the implementation of the recommendations of oversight bodies;

21. *Also requests* the Secretary-General to maintain an accounting inventory record of the furniture and equipment acquired for the Tribunal since its establishment (purchase and depreciation) in accordance with the relevant regulations and rules and resolutions of the General Assembly, and to provide a succinct summary of that information in his next report on financing of the Tribunal;

22. *Further requests* the Secretary-General to include in future budget proposals information on those items in the current inventory for which proposals for replacement and/or additions are made, in the format used in peacekeeping budget proposals;

23. *Requests* the Secretary-General to take all necessary action to ensure that the Tribunal is administered with a maximum of efficiency and economy;

24. *Approves* the budgetary recommendations of the Advisory Committee as contained in paragraph 24 of its report;[2]

25. *Notes* that by its resolution 53/___, the General Assembly has approved a revised salary and other conditions of service, including the pension entitlement for members of the International Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda as recommended by the Advisory Committee,[7] resulting in additional requirements of 147,300 United States dollars net in 1999 for the International Tribunal for Rwanda;

26. *Decides* that the five Professional and two General Service posts in The Hague currently funded against the budget of the International Tribunal for Rwanda should be transferred from the staffing table and the related financial provisions of the International Tribunal for Rwanda to the staffing table and the budget of the International Tribunal for the Former Yugoslavia effective 1 January 1999, resulting in a reduction of 666,900 dollars gross (551,800 dollars net) in the overall requirements in 1999 for the International Tribunal for Rwanda;

27. *Also decides* to revise the level of appropriation to the Special Account for the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 to 52,297,900 dollars gross (48,043,400 dollars net) for the period from 1 January to 31 December 1998;

28. *Further decides* to appropriate to the Special Account for the International Tribunal for Rwanda a total amount of 75,260,600 dollars gross (68,531,900 dollars net) for the period from 1 January to 31 December 1999, which also includes provisions for the revised salary and other conditions of service, including the pension entitlement for members of the International Tribunal for Rwanda;

29. *Decides* that the financing of the appropriation for the period from 1 January to 31 December 1999 under the Special Account for the International Tribunal for Rwanda shall take into account the reduction of 4,340,700 dollars gross (2,835,700 dollars net) in the initial appropriation for 1998 and the unencumbered balance of 6,716,000 dollars gross

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[7] A/53/7/Add.6. For the final text, see *Official Records of the General Assembly, Fifty-third Session, Supplement No. 7.*

(4,365,400 dollars net) as of 31 December 1997, both of which shall be set off against the aggregate amount of the appropriation, as detailed in the annex to the present resolution;

30. *Also decides* to apportion the amount of 32,101,950 dollars gross (30,665,400 dollars net) among Member States in accordance with the scale of assessments applicable to the regular budget of the United Nations for the year 1999;

31. *Further decides* to apportion the amount of 32,101,950 dollars gross (30,665,400 dollars net) among Member States in accordance with the scale of assessments applicable to peacekeeping operations for the year 1999;

32. *Decides* that, in accordance with the provisions of its resolution 973 (X) of 15 December 1955, there shall be set off against the apportionment among Member States, as provided for in paragraphs 29 and 30 above, their respective share in the Tax Equalization Fund of the estimated staff assessment income of 2,873,100 dollars approved for the International Tribunal for Rwanda for the period from 1 January to 31 December 1999;

33. *Welcomes* contributions already made to the Voluntary Fund to support the activities of the International Tribunal for Rwanda, and invites Member States and other interested parties to make voluntary contributions to the Tribunal both in cash and in the form of services and supplies acceptable to the Secretary-General.

Annex

Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

	Gross	*Net*
	(United States dollars)	
Appropriation for the period from 1 January to 31 December 1999	75 780 200	68 936 400
Financial implications of General Assembly resolution 53/___	147 300	147 300
Less:		
Provisions for those posts to be transferred to the budget of the International Tribunal for the Former Yugoslavia	(666 900)	(551 800)
Total appropriation for the period from 1 January to 31 December 1999	75 260 600	68 531 900
Less:		
Reduction in the appropriation for 1998	(4 340 700)	(2 835 700)
Unencumbered balance as of 31 December 1997	(6 716 000)	(4 365 400)
Balance to be assessed for the period from 1 January to 31 December 1999	64 203 900	61 330 800
Contributions assessed on Member States in accordance with the scale of assessments applicable to the regular budget of the United Nations for the year 1999	32 101 950	30 665 400
Contributions assessed on Member States in accordance with the scale of assessments applicable to peacekeeping operations for the year 1999	32 101 950	30 665 400